



Appeal Decision

Site Visit made on 3 November 2021

by Mark Caine BSc (Hons) MTPL MRTPI LSRA

an Inspector appointed by the Secretary of State

Decision date: 8 December 2021

Appeal Ref: APP/V4305/W/21/3274377

Woodend, Netherley Road, Tarbock Green, Prescott, L35 1QE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr Boulger against the decision of Knowsley Metropolitan Borough Council.
- The application Ref 19/00640/FUL, dated 21 November 2019, was refused by notice dated 24 December 2020.
- The development proposed is described as 'Redevelopment of land at Woodend Industrial Site to a mixed-use development comprising 14 residential units and 14 work units of B1 class with associated infrastructure.'

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The name of the applicant is given as 'Boulger' in the original planning application form, but the appellant's details are specified as Mr Paul Boulger in the submitted appeal form. However, an email has been submitted to confirm that Mr Boulger is the appellant and I have therefore used this name in the banner heading above.
3. Notwithstanding the description of development set out above, which is taken from the application form, it is clear from the plans, which were amended during the course of the planning application, and accompanying details that the development proposed is the erection of 14 no dwellings together with associated landscaping and infrastructure. The Council dealt with the proposal on this basis and so shall I.

Main Issues

4. The appeal site lies in the Green Belt. The main parties agree that the proposal would not be inappropriate development in the Green Belt. There is no evidence before me to conclude otherwise. On this basis the main issues are:
 - The effect of the proposed development on the character and appearance of the area, including the setting of the Tarbock Green and Tarbock Village Conservation Areas.
 - Whether the proposal would provide acceptable living conditions for future residents, with particular reference to noise and disturbance.

Reasons

Character and Appearance

5. The appeal site is hard surfaced, with a number of large adjoining industrial buildings occupying the eastern side of it. It is largely contained by vegetation along its east and western boundaries, with mature trees also present along some of its frontage.
6. Although the site is adjacent to a dwelling to the west, and a riding school and mineral processing facility (MPF) to the east, the prevailing character of the area is rural, with a loose collection of buildings seen in the context of open agricultural fields and countryside. These provide the surrounding area with a general sense of spaciousness.
7. The appeal site also lies within the setting of the Tarbock Green Conservation Area, and the Tarbock Village Conservation Area (the Conservation Areas). The Conservation Areas are heritage assets; and the National Planning Policy Framework (the Framework) defines the setting of a heritage asset as the surroundings in which the asset is experienced. It goes on to state that elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral.
8. In so far as this appeal is concerned, and on the basis of the evidence before me, I consider the significance of both of the Conservation Areas to derive, in part, from their origins as small separate rural hamlets that predominantly comprise two storey brick or rendered properties that run along Netherley Road. The surrounding open rural settings of these two conservation areas therefore clearly contribute to understanding and revealing this significance.
9. However, the appeal site, which sits in an area of land between the Conservation Areas, has a robust utilitarian and industrial appearance. The existing buildings are set back from Netherley Road and are concentrated to the eastern side of the site. Nonetheless, they comprise a mixture of red brick and metal clad units that are clearly visible from the wide-open access road when approaching from the west and to the front of the site, and in between the gaps in the trees along the eastern boundary. I appreciate that there is a degree of separation provided between these buildings and the western boundary of the site, however this area is hard surfaced and enclosed by security fencing. As a result, I do not consider the appearance and use of the site to be similar to commercial enterprises and sheds that are commonplace in and around farms. In light of all of these factors, I am therefore not convinced that the site helps to maintain some impression of the historic rural divide between Tarbock Village and Tarbock Green.
10. Therefore, whilst the proposal would result in some change to the setting of the Conservation Areas, I am not persuaded that in its present form, the appeal site makes any positive contribution to their heritage significance. As a result, I do not find that the proposal would cause material harm to their significance, or to the setting of the Conservation Areas.
11. Nonetheless, the proposed development would clearly increase the presence of built form within the site, and in some areas where none currently exists. The appellant has put forward that the proposal would provide a lower total

floorspace and volume than the existing industrial buildings, with a density range below 17.5dph. I also appreciate that the proposed houses have been set back in line with adjacent properties on Netherley Road. However, the proposal for fourteen dwellings would not only involve the erection of houses, but would include significant areas of new road, paved driveways, and shared surface turning heads, including one that terminates in close proximity to the back edge of the Netherley Road footway. This would result in a large exposed, bare, hard surfaced area that would occupy the space along the frontage of the appeal site and would be readily apparent from Netherley Road. When in use parked cars would also be likely to occupy these expansive areas during certain times of the day.

12. This arrangement would be contrary to the summary and conclusions of the appellant's Landscape and Visual Appraisal (LVA) which recommends that the development area is set back to allow space for structure planting to be set behind a new hedgerow. The LVA requires this to provide further screening of the site from the immediate area to the south, and to ensure that it is in keeping with the existing character of this part of the road.
13. Having regard to the appellant's Local Nolli plan it is also apparent that the proposed dwellings would have significantly smaller garden areas than the majority of dwellings found in the surrounding area and less space in between them and their side boundaries.
14. Therefore, notwithstanding the existing heavily urbanised character of the site, and the potential for future open storage, the irregular curving cul-de-sac layout, prominent areas for car parking and amount of proposed dwellings would result in a closely packed suburban form of development that would be at odds with the prevailing loosely knit pattern of development and spacious rural character and appearance of the area.
15. I note the Council's concerns regarding the house typologies and proposed materials. However, from the evidence before me, the proposed dwellings individually would broadly reflect the traditional forms and varied materials of nearby dwellings. Nevertheless, given the layout and number of proposed houses, this, along with the central areas of open space, and the retained and replacement landscape features would not override the harm to the rural spacious character and appearance of the area. As such it would not maximise opportunities for the regeneration of previously developed land to improve the image of Knowsley.
16. I find that the proposed development would not harm the setting of the Tarbock Green and Tarbock Village Conservation Areas, and therefore would comply with Policy CS20 in the Knowsley Local Plan Core Strategy 2016 (Local Plan) and Policy DQ5 in the Knowsley Replacement Unitary Development Plan 2006 (UDP), which seek to protect Conservation Areas. However, it would cause significant harm to the character and appearance of the area. In this respect, it would conflict with Policies CS2 and CS19 in the Local Plan, which, amongst other matters, promote good quality design and expects new development to respond to and integrate positive characteristics of immediate surroundings, including form, layout, alignment and density of the existing built environment. In addition, it would also fail to accord with the design objectives of the Framework, specifically Section 12.

Noise and Disturbance

17. The proximity of the appeal site to the MPF is such that a 'Statement of Case – Noise' assessment report (NAR) has been submitted by the appellant. This is an update to previous noise impact assessments that were submitted during the course of the determination of the planning application.
18. The NAR summarises that an acoustic fence is required to be installed along part of the boundary with various plots in order to control garden noise levels to 55dB LAeq,16hr for road traffic and to lower the rated level of noise associated with the MPF. It also concludes that with a partially open standard thermal glazed window, various habitable rooms would exceed the internal noise criteria. As such further mitigation through alternative ventilation is recommended, which can take the form of an acoustic trickle ventilator in order to permit background ventilation.
19. There is limited information before me about the operations that are carried out at the MPF or its operating times. However, in calculating the typical background sound levels the NAR provides typical measurement distances that vary for different types of activity on this site. It is unclear how the typical measurement distances were arrived at, and why an activity such as chain saw operating would be 51 metres away, whereas skip deliveries for example would be 21 metres away.
20. I am also mindful that the Council's uncontested photographic evidence of the MPF shows other types of machinery and activity taking place across the site, including in proximity to the north east boundary of the appeal site. These also have the potential for noise disturbance but have not been included as activities in the NAR. Indeed, this only sets out that chainsaw operating and skip lorries revving their engines and delivering waste to the site as activities that took place during the monitoring period.
21. Furthermore, the measured noise levels (dB) in the NAR do not contain LAmax measurements which are required to provide maximum sound pressure levels. I am concerned that the approach of using LAeq levels in this environment, as with any averaging process, has the effect of smoothing out peaks and troughs. Due to the varied nature of sound, particularly in respect of likely noise associated with industrial processes, such as from engines, clanging, beeping and machinery, I do not consider that this approach would be truly representative of the noise generated from sudden, sharp differences in sound levels at different times of the day. It is these differences that can cause more disturbance than a continuous consistent sound such as that from passing traffic.
22. The NAR also refers to overall specific noise levels for plot 9, which has been omitted from the revised proposed site plan. From the information before me I am therefore not persuaded that the NAR provides a fully representative picture of the existing background noise.
23. Moreover, although they may accord with Building Regulations, I share the Council's Environmental Health Section's concerns about the appropriateness of the proposed mitigation measures. Notwithstanding the proposed installation of alternative ventilation, future residents would be able to open their windows and may therefore be exposed to unacceptable noise levels in bedrooms at times when they would expect a reasonable degree of peace and quiet.

Although the need for residents to open their windows may be intermittent, on the basis of the limited information before me, I consider that this would be harmful to their living conditions.

24. The wish of future residents to open their windows may also lead to complaints in relation to the operations of the MPF. Although residents would have the option of closing their windows and use the alternative ventilation system, this cannot be enforced and I consider that it would be difficult to use the availability of this option to counter complaints that may arise. In this respect I consider that the proposal would conflict with paragraph 187 of the Framework which states that existing businesses should not have unreasonable restrictions placed on them as a result of development permitted after they were established.
25. As such I am unable to find that the proposed development would provide acceptable living conditions for future residents, with particular reference to noise and disturbance. As such it would conflict with Local Plan Policy CS19 and Saved Policy ENV2 of the UDP. Amongst other things, these require that development maintains a good standard of amenity for all existing and future residents, and would not be subject to unacceptable noise or vibration from an existing source.
26. It would also fail to accord with paragraphs 130 and 187 of the Framework. These seek a high level of amenity for all existing and future users, and to ensure that new development can be integrated effectively with existing businesses and community facilities.

Other Matters

27. The appellant has drawn my attention to a recent appeal decision¹ for 18 dwellings on a previously developed site in the Green Belt in Knowsley. Nonetheless, the plans submitted by the appellant show the proposed houses to be set back behind a considerable softly landscaped buffer, which would mitigate close range views into the site. The Inspector also considered this proposal to respect the pattern of recessed and concealed properties on the opposite side of the road. Accordingly, its circumstances are not directly comparable with those which apply in this appeal. I have, in any case, determined the appeal on its own merits and on the basis of the evidence before me.
28. The appeal proposal would provide some economic, environmental and social benefits. It would generate economic activity during the construction of the housing, through employment opportunities, household and first occupation spend, and Council Tax and New Homes Bonus. There would also be some environmental benefits to biodiversity through the provision of the pockets of open grassland and additional planting. However, as the proposal is for fourteen dwellings any benefits in these respects would be modest. Whilst the proposed development would also provide new larger family homes into the area, it would make a contextually small contribution to housing supply which, according to the uncontested view of the Council, appears to be in excess of the five years required by the Framework.

¹ APP/V4305/W/17/3171169

29. The plans were also amended during the course of the planning application to remove the live-work units and any environmental and social benefits associated with these are no longer applicable. I recognise that the principle of development and the lack of impact on the openness of the Green Belt has been accepted by the Council. The reuse of a brownfield site that would prevent the need to develop greenfield sites elsewhere along with the site's accessible location with good connections to public transport, infrastructure and local services have also been put to me as favourable factors in support of the appellant's case. In addition, I have been made aware that the site is located within Flood Zone 1 and experiences little surface water flooding, and that there are no listed buildings nearby or tree preservation orders on the site. However, these matters did not appear to be contentious in the appeal and the absence of harm in these respects would be neutral factors that do not weigh in favour of the proposal.
30. The remediation of the site, including the removal of asbestos, would provide mitigation of some of the development's impacts and would also not add any positive weight in favour of the proposal. There is little substantive evidence before me to suggest that the site currently suffers from problems associated with anti-social behaviour. Little information has also been provided in respect of nearby footpath networks in the area and how the proposal would subsequently encourage a more active lifestyle for future residents.
31. I appreciate that the site has previously suffered from fly tipping, and other problems associated with it being unused, and that the proposal seeks to achieve a solution for this. However, there is nothing in the evidence before me to indicate that the particular scheme proposed is the only way of achieving such benefits. With all of the matters above in mind, I therefore attach limited weight to the appeal scheme's benefits.

Conclusion

32. Although I have found that there would be no adverse effect on the setting of the Tarbock Green and Tarbock Village Conservation Areas, and that the proposal would bring benefits of limited weight as identified under Other Matters, these considerations would not outweigh the significant harm that I have identified in respect of the proposal's effect on the character and appearance of the area and to the living conditions of future residents, in respect of noise and disturbance. It would thereby not constitute sustainable development for which there is a presumption in favour.
33. For the reasons given above, having taken account of the development plan as a whole, along with all other relevant material considerations, the appeal should therefore be dismissed.

Mark Caine

INSPECTOR